REMARKS

Claims 1-2 are pending in this application. Claim 3 has been withdrawn from consideration. No new matter has been added. Applicant is respectfully requesting reconsideration of the restriction requirement in view of the following remarks.

The method of claim 3 has been withdrawn from consideration as it is suggested to be improperly dependent from the composition of claim 1. The Examiner acknowledges that claim 3 could be joined to the proper group if Applicants indicate what is intended. Thus, in an earnest effort to clarify, Applicants have amended claim 3 to be dependent upon the composition of claim 1. Support for this amendment is found at page 3, lines 21-25, which indicates that the MUC1 cytoplasmic tail peptide composition of SEQ ID NO:1 is part of a vaccine. In light of this amendment, Applicants respectfully request that claim 3 be joined with the compositions of Group I.

Claims 1 and 2 have been subjected to a Restriction Requirement under 35 U.S.C. §121 as follows:

Group I, claim 1, drawn to a composition for preventing or treating cancer in a subject comprising at least a portion of a MUC1 cytoplasmic tail peptide; and

Group II, claim 2, drawn to a method for preventing or treating a cancer in a subject.

The Examiner acknowledges that Inventions I and II are related as product and process of use; however, they are distinct because the product as claimed can be used in a materially different process such as affinity chromatography. The Examiner acknowledges that were Applicants to elect claims directed to the product, and the product claim were subsequently allowed,

withdrawn process claims that depend from or otherwise include all limitations of the allowable product claim will be rejoined in accordance with the provisions of MPEP §821.04. Applicants are required to elect one of the Groups to be examined. Applicants respectfully traverse this restriction requirement.

MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

The inventions of Groups I and II are related in that both employ the same MUC1 cytoplasmic tail peptide of SEQ ID NO:1 in compositions and methods for preventing and treating cancer in a subject. As the inventions of Groups I and II have been classified in classes 424, subclasses 184.1, and have the same field of search, no serious burden would be incurred by the Examiner in searching and examining together claims of Groups I and II. In contrast, the prosecution of each of these Groups of inventions separately will pose an economic burden on Applicants. Accordingly, Applicants respectfully request reconsideration of this restriction requirement.

However, in an earnest effort to be completely responsive, Applicants hereby elect to prosecute Group I, claims 1 and 3, drawn to a composition for preventing or treating cancer in a

subject comprising at least a portion of a MUC1 cytoplasmic tail peptide, classified in class 424, subclass 184.1, with traverse.

Respectfully submitted,

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